

ORDINANCE 2017-17

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WHITESTOWN, INDIANA,
ANNEXING TERRITORY TO THE TOWN OF WHITESTOWN, INDIANA,
PLACING THE SAME WITHIN THE CORPORATE BOUNDARIES THEREOF
AND MAKING THE SAME A PART OF THE TOWN OF WHITESTOWN**

**REINHARDT
SUPER-VOLUNTARY ANNEXATION**

WHEREAS, the Town Council ("Council") of the Town of Whitestown, Indiana ("Town" or "Whitestown") received a petition ("Petition") requesting that certain territory generally located north of the existing Town limits and east of County Road 500 East, and with a common address of 5175 E. 300 S., as hereinafter described ("Annexation Territory"), be annexed by Whitestown; and

WHEREAS, the Petition has been signed by the sole owner (i.e, 100%) of the property within the Annexation Territory; and

WHEREAS, the Council deems it desirable and in the best interest of the Town to annex the Annexation Territory; and

WHEREAS, a legal description and survey of the Annexation Territory are attached hereto as Exhibit A; and

WHEREAS, where the legal description attached as Exhibit A describes land that is contiguous to a public highway right-of-way that has not previously been annexed, the Annexation Territory shall include the contiguous public highway right-of-way even if it is not described in Exhibit A, except to the extent prohibited by I.C. § 36-4-3-1.5(c); and

WHEREAS, where the parcel of property within the Annexation Territory is adjacent to a parcel of property within the existing Town limits, the Annexation Territory boundary shall conform to and match the boundary of the existing Town limits so long as it does not result in adding or removing parcels of property from the Annexation Territory depicted in Exhibit A; and

WHEREAS, the Annexation Territory consists of approximately 3.258 acres, and is contiguous to the existing Town limits; and

WHEREAS, responsible planning and state law require adoption of a fiscal plan and a definite policy for the provision of certain services to any annexed areas; and

WHEREAS, prior to adoption of this Ordinance, the Council, by resolution, will have adopted a written fiscal plan and definite policy for the provision of services of both a non-capital and capital nature to the Annexation Territory that meets the requirements of I.C. § 36-4-3; and

WHEREAS, the terms and conditions of this annexation, including the written fiscal plan, are fairly calculated to make the annexation fair and equitable to property owners and residents of the Annexation Territory and of the Town; and

WHEREAS, the Town has further determined that the Annexation Territory is needed and can be used by Whitestown for its development in the reasonably near future; and

WHEREAS, prior to the final adoption of this Ordinance, the Town will have conducted a public hearing pursuant to proper notice issued as required by law; and

WHEREAS, the Council finds that the Annexation pursuant to the terms of this Ordinance is fair and equitable and should be accomplished.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Whitestown, Indiana, as follows:

1. The above recitals including Exhibit A are incorporated herein by this reference as though fully set forth herein below.
2. In accordance with I.C. § 36-4-3-5.1 and other applicable laws, the Annexation Territory is hereby annexed to the Town and thereby included within its corporate boundaries pursuant to the terms of this Ordinance.
3. The Annexation Territory is assigned to Council District No. 1.
4. The Annexation Territory shall maintain its current zoning classification(s) and designation(s) until such time the Town updates its respective comprehensive plan, zoning ordinance, or zoning map.

5. A portion of the property within the Annexation Territory is currently classified as agricultural for tax purposes. As may be contemplated by I.C. § 36-4-3-4.1, Whitestown anticipates that the real property will be treated as exempt from property tax liability under I.C. § 6-1.1 for “municipal purposes” unless/until the land is reclassified under assessment rules and guidelines of the DLGF. As fire protection services are not uniquely a municipal service, and Whitestown already provides fire protection service to unincorporated Worth Township, including the Annexation Territory, and as agreed by the property owner, the fire tax levy for the Annexation Territory is not to be considered “property tax liability under I.C. § 6-1.1 for municipal purposes.” The Annexation Territory will therefore not be exempt from property tax liability for fire protection purposes (e.g., the fire tax levy) even while the Annexation Territory remains classified as agricultural.
6. All prior Ordinances or parts thereof that may be inconsistent with any provision of this Ordinance are hereby superseded. The paragraphs, sentences, words, and Annexation Territory of this Ordinance are separable, and if a court of competent jurisdiction hereof declares any portion of this Ordinance or the Annexation Territory unconstitutional, invalid, or unenforceable for any reason, such declaration shall not affect the remaining portions of the Annexation Territory or this Ordinance.
7. The effective date of this annexation shall be as soon as allowed by law following its adoption, execution, and publication as required by law.

Introduced on May 10, 2017, and adopted by the Town Council of the Town of Whitestown, Indiana, on _____, 2017.

[Signature Page Follows]

THE TOWN COUNCIL OF THE TOWN
OF WHITESTOWN, INDIANA

YAY/NAY

Eric Miller, President

Susan Austin, Vice-President

Kevin Russell

Clinton Bohm

Jeffrey Wishek

ATTEST:

Matthew Sumner, Clerk-Treasurer
Town of Whitestown, Indiana

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Stephen C. Unger

This Ordinance was prepared by Stephen C. Unger, Attorney at Law, Bose McKinney & Evans LLP, 111 Monument Circle, Suite 2700, Indianapolis, Indiana 46204

EXHIBIT A

RECORD LAND DESCRIPTION: (INSTR. # 0310307)

Parcel I:

Part of the Northwest Quarter of section 24, Township 18 North, Range 1 East, situated in Worth Township, Boone County, Indiana, and being more particularly described as follows:

Beginning at a point on the North line of said Quarter Section being North 89 degrees 35 minutes 46 seconds East (assumed basis of bearings) 766.41 feet from the Northwest Corner thereof, said point being 1,908.41 feet West of the Northeast Corner of said Quarter Section; thence continue North 89 degrees 35 minutes 46 seconds East along said North line 200.00 feet; thence South 0 degrees 14 minutes 46 seconds East 402.57 feet to an existing fence line; thence South 89 degrees 07 minutes 46 seconds West along said fence line 200.00 feet; thence North 0 degrees 00 minutes 53 seconds West along an existing fence line 224.81 feet; thence North 0 degrees 32 minutes 20 seconds West along said fence line 179.40 feet to the point of beginning and containing 1.848 acres, more or less. Subject to right of way for County Road 300 South off the entire North side thereof and all other legal easements and rights of way of record.

Parcel II:

Part of the Northwest Quarter of Section 24, Township 18 North, Range 1 East, situated in Worth Township, Boone County, Indiana, and being more particularly described as follows:

Beginning at a point on the North line of said Quarter Section being North 89 degrees 35 minutes 46 seconds East (assumed basis of bearings) 966.41 feet from the Northwest Corner thereof, said point being 1708.41 feet to an existing fence line; thence South 89 degrees 26 minutes 36 seconds West along said fence line 136.85 feet; thence South 89 degrees 07 minutes 46 seconds West along said fence line 16.38 feet; thence North 0 degrees 14 minutes 46 seconds West 402.57 feet to the point of beginning and containing 1.410 acres, more or less. Subject to right of way for County Road 300 South off the entire North side thereof and all other legal easements and rights of way of record.

EXHIBIT A (CONT.)

CERTIFICATE OF SURVEY

I, the undersigned, hereby certify that this survey and the associated surveyor's report were executed under my supervision and to the best of my knowledge, information, and belief were performed in accordance with the current Indiana Minimum Survey Standards, 865 IAC 1-12, for the type of survey as indicated herein, on the following described real estate:

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I further certify that points were set at the locations on the subject real estate, as shown, and that this survey correctly shows the location of all visible easements of which the undersigned has been advised, and all visible encroachments, if any, across the established survey lines.

CERTIFIED November 4, 2013

Jonathan E. Hause, P.L.S.
Professional Land Surveyor
Indiana No. LS20600040



SURVEYOR'S REPORT

In accordance with Title 865, Article 1, Rule 12, of the Indiana Administrative Code (formerly Title 864, Article 1.1, Chapter 13), establishing minimum standards for the practice of land surveying in Indiana, currently in effect, the following observations and opinions are submitted regarding the various uncertainties in the location of the lines and corners established on this survey as a result of:

- Variances in the reference monuments;
- Discrepancies in record descriptions and plats;
- Inconsistencies in lines of occupation;
- Random Errors in Measurement (Relative Positional Accuracy):

The purpose of this survey was to retrace and monument the Holm Parcel described in Instrument Number 0310307 as recorded in the Office of the Recorder of Montgomery County, Indiana per instructions from the client.

The survey was controlled by the following monuments:

- A Harrison monument was found marking the Northwest corner of the Northwest Quarter of Section 24, T18N, R1E. This monument was set by the Boone County Surveyor's Office in the location of the Original Corner.
- A Harrison monument was found marking the Northwest corner of the Southwest Quarter of Section 24, T18N, R1E. This monument was set by the Boone County Surveyor's Office in the location of the Original Corner.
- A Harrison monument was found marking the Northeast corner of the Northwest Quarter of Section 24, T18N, R1E. This monument was set by the Boone County Surveyor's Office in the location of the Original Corner.

The basis of bearings for this survey is based upon GPS observations made on October 29, 2013, with the North line of the Northwest Quarter of said Section 24, bearing North 89 degrees 21 minutes 30 seconds East.

There are no discrepancies in record descriptions and plats.

There are no inconsistencies in lines of occupation.

As a result of the above observations, it is my opinion that the uncertainties in locations of the lines and corners established on this survey are as follows:

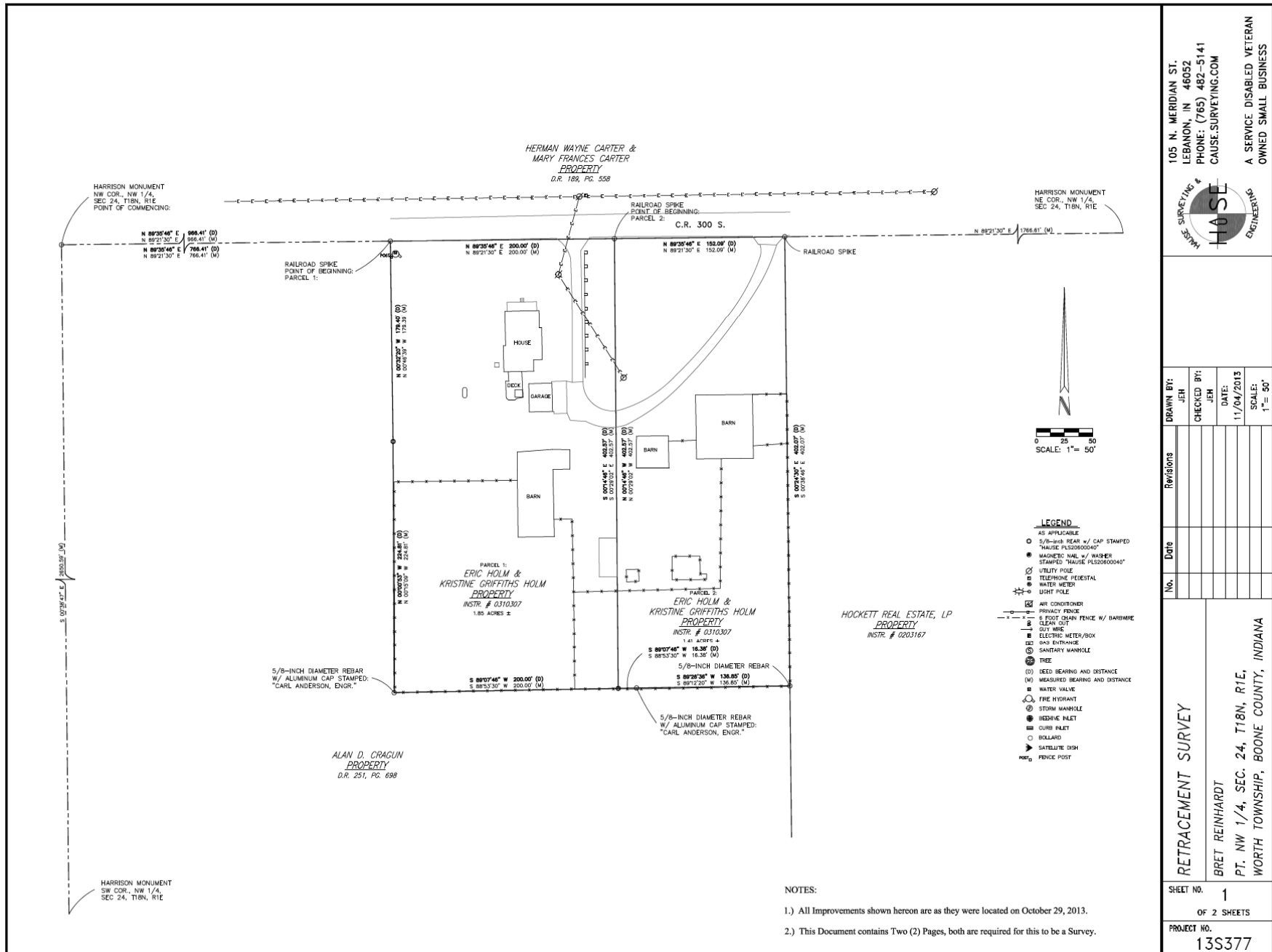
- Variance in reference monuments: As Noted Above
- Discrepancies in record descriptions and plats: As Noted Above
- Inconsistencies in lines of occupation: As Noted Above
- Relative Positional Accuracy (RPA) of the corners of the subject tract established by this survey is within the specifications of a suburban survey (± 0.13 feet plus 100 parts per million) as defined in I.A.C. 865.

NOTES:

- All Improvements shown hereon are as they were located on October 29, 2013.
- This Document contains Two (2) Pages, both are required for this to be a Survey.

105 N. MERIDIAN ST. LEBANON, IN 46052 PHONE: (765) 482-5141 CAUSE.SURVEYING.COM		A SERVICE DISABLED VETERAN OWNED SMALL BUSINESS	
NO.	DATE	Revisions	DRAWN BY: J.E.H.
			CHECKED BY: J.E.H.
			DATE: 11/04/2013
			SCALE: 1" = 50'
RETRACEMENT SURVEY			
BRET REINHARDT PT. NW 1/4, SEC. 24, T18N, R1E, WORTH TOWNSHIP, BOONE COUNTY, INDIANA			
SHEET NO. 1			
OF 2 SHEETS			
PROJECT NO. 13S377			

EXHIBIT A (CONT.)



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